

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120354-001

Guardian Life Insurance Company

Respondent

Issued and entered
this 7th day of September 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 19, 2011, XXXXXX, on behalf of her minor son XXXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On April 7, 2011 after a preliminary review of the material submitted the Commissioner accepted the case for external review.

Because the case involves medical issues, the Commissioner assigned the matter to an independent review organization, which submitted its analysis and recommendation to the Commissioner on May 9, 2011.

II. FACTUAL BACKGROUND

Petitioner is covered under a group dental plan issued to his employer and underwritten by Guardian Life Insurance Company. Petitioner's dentist determined that he required a labial veneer-porcelain laminate on tooth #8 and a porcelain fused to metal crown on tooth #9. Petitioner's dentist submitted a pre-treatment estimate to Guardian. Guardian denied coverage for the requested services ruling they did not meet the coverage requirements of the dental plan.

Petitioner appealed the denial of coverage for the requested services through Guardian's internal grievance process. Guardian upheld its denial and issued a final adverse determination dated January 27, 2011.

III. ISSUE

Did Guardian correctly deny coverage for the porcelain veneer on tooth #8 and the crown on tooth #9 under the terms of the certificate?

IV. ANALYSIS

Petitioner's Argument

Petitioner's mother argues the requested treatment is medically necessary, stating in her request for external review:

Patient has 2 broken teeth. One is in desperate need of a crown. It cannot be fixed with a filling. Has had a root canal on the tooth. The teeth were broken off when [Petitioner] fell off a bicycle. Both teeth are injured but one is half broken off.

Respondent's Argument

In its January 27, 2011 final adverse determination, Guardian wrote:

On 1/12/2011 your claim for the crown and the veneer on teeth #8 & #9 was received. Coverage for these services were denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth [sic] does not appear to have decay or injury. The dental plan only covers crowns, inlays, onlays and veneers when needed due to decay or injury and when the tooth cannot be restored with a routine filling.

Commissioner's Review

Guardian provides coverage for dental care which meets the criteria in its certificate of coverage which states that a service must be necessary, appropriate for a given condition, and included in the dental plan's list of covered dental services. The dental plan describes covered services relevant to the Petitioner's situation in the following provisions from page 102 and 113 of the benefit plan document:

Alternate Treatment

If more than one type of service can be used to treat a dental condition, we have the right to base benefits on the least expensive service which is within the range of professionally accepted standards of dental practice as determined by us.

Major Restorative Services

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when

needed because of decay or injury, and only when the tooth cannot be restored with amalgam or composite filling material. Post and cores are covered only when needed due to decay or injury. Allowance includes insulating bases, temporary or provisional restorations and associated gingival involvement. Limited to permanent teeth only.

The question of whether the requested services were dentally necessary was submitted to an independent medical reviewer (IRO) for analysis as required by section 11(6) of the PRIRA, MCL 550.1911(6). The IRO reviewer assigned to this case is a licensed dentist in active practice who is certified by the American Board of Quality Assurance and Utilization and who is a fellow of the American College of Healthcare Executives and a certified dental consultant.

The IRO report included the following analysis and conclusions (the complete report is provided to the parties with this order):

Reviewer's Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the laminate veneer on tooth #8 and the crown on tooth #9 are considered not dentally necessary for the treatment of the enrollee's condition.

Tooth #8 received a D2962 labial veneer porcelain laminate-laboratory which is a purely esthetic restoration. Moreover, the radiographs showing tooth #8 exhibit no pathoses.

Tooth #9 has a narrative from an endodontist, XXXXX, DDS, MS dated August 5, 2010 noting completed endodontic therapy for tooth #9 with "Restorative Recommendations: Composite." This appears to indicate a lingual endodontic (aka 'root canal') access opening that Dr. XXXXX opines could be successfully restored with a one surface composite restoration (typically coded as D2330)...

* * *

Clinical Rationale for the Decision:

Although crowns or veneers are often the only way to achieve a goal of teeth looking better, many teeth are restorable with other methods.

Two 92) treatments have been provided. The D2962 labial veneer porcelain laminate-laboratory provided for tooth #8 is an esthetic treatment. D2962 labial veneer porcelain laminate-laboratory is an esthetic treatment that could also be provided by D2960 labial veneer resin laminate-chairsides with the main exception being that the composite veneers are not as esthetically pleasing as porcelain and the composite veneers stain more readily.

The D2750 crown-porcelain fused to high noble metal for tooth #9 certainly qualifies as an esthetic restoration but such a full-coverage crown is indicated for a

tooth that has “been ravaged by caries or trauma.” [Citation omitted] However, there is no evidence that this tooth has any such indications for a full-coverage crown; certainly no proof of loss has been presented as the radiographs show neither caries nor other means of loss of tooth structure....

The Commissioner is not required in all instances to accept the IRO’s recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination, the Commissioner must cite “the principal reason or reasons why the Commissioner did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16)(b). The IRO’s analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO’s recommendation should be rejected in the present case.

The Commissioner accepts the IRO reviewer’s conclusion and finds that Guardian’s denial of the crown buildup was not appropriate under the terms of the certificate.

V. ORDER

The Commissioner upholds Guardian Life Insurance Company’s January 27, 2011, final adverse determination. Guardian is not required to provide coverage for the dental work requested for the Petitioner.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this order may seek judicial review no later than sixty days from the date of this order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner